



Reinhart Boerner Van Deuren s.c.
P.O. Box 2018
Madison, WI 53701-2018

22 East Mifflin Street
Suite 700
Madison, WI 53703-4224

Telephone: 608-229-2200
Fax: 608-229-2100
Toll Free: 800-728-6239
reinhartlaw.com

March 12, 2019

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Attorney John Strange
Madison City Attorney
210 Martin Luther King Jr. Blvd., #401
Madison, WI 53703



Dear Attorney Strange:

This firm represents Edgewood High School of the Sacred Heart, Inc. ("Edgewood") regarding the use, maintenance and development of its campus. As you are aware, the State of Wisconsin follows the bright-line building permit rule that a property owner's rights vest upon submittal of an application for a building permit that conforms to the zoning or building code requirements in effect at the time of application. *See Lake Bluff Housing Partners v. South Milwaukee*, 197 Wis. 2d 157, 540 N.W.2d 189 (1995), 94-1155. To that end, an application pursuant and in compliance with Chapter 10 of the City of Madison ordinances for Outdoor Lighting was submitted to the City of Madison on February 22, 2019 with respect to the Edgewood Campus. As shown on the City of Madison Site Plan Verification page attached as Exhibit A, the application was reviewed and approved for compliance with lighting and zoning on February 27, 2019 and March 1, 2019, respectively.

It has come to my attention that the City of Madison is considering the revocation of its prior approval of the compliant application based upon a *new* zoning interpretation for the Edgewood Campus that light poles of any height are not allowed! This decision appears to be a pre-text to assuage concerns of a small minority of plaintiff neighbors attempting to interfere with Edgewood's historical use of its athletic fields. The interpretation is arbitrary and capricious.

While Edgewood's outdoor lighting application is compliant with the applicable City ordinance regarding Outdoor Lighting, the City is now pointing to the fact that the Edgewood Campus was re-zoned by the City to the Campus-Institutional District in January, 2013. The Campus Institutional District provides bulk requirements within the district and notes a general height maximum of 3 stories or 68 feet unless a voluntary 10-year master plan is in place. The City is incorrectly arguing that my client's voluntarily adopted 2014 Master Plan is silent on the height of future light poles with such silence resulting not in a default height of the 68 foot

Attorney John Strange
March 12, 2019
Page 2

maximum of the zoning district but a default height of zero (0) feet! In coming to this conclusion, the City is ignoring (i) the fact that the Outdoor Lighting ordinance does not have a maximum height, and (ii) the practical intention of the zoning code height requirements are to limit the height of imposing structures rather than light poles. "[Z]oning regulations should not be extended by construction beyond the fair import of their language and they cannot be construed to include by implication that which is not clearly within their express terms." 8 Eugene McQuillin, *The Law of Municipal Corporations*, § 25.71 (3d ed. 2000). See also *State v. Pratt*, 36 Wis. 2d 312, 317, 153 N.W.2d 18 (1967) ("In construing or interpreting a statute the court is not at liberty to disregard the plain, clear words of the statute").¹

As noted above, Edgewood's rights vested upon the submittal of its compliant and now City-approved application. Nonetheless, I will point out that the Master Plan explicitly and intentionally addresses outdoor lighting and related height standards in Section 3.6 "Architectural Guidelines For Perimeter Buildings." The Master Plan notes in subsection 7 of Section 3.6 the following self-imposed additional requirements for outdoor lighting beyond compliance with the City's Outdoor Lighting Ordinance:

"7. Site and Building Lighting

- a. Utilize dark sky compliant light fixtures
- b. Provide lighting that is required for pedestrian safety and building code required exit lighting
- c. Reduce glare and light spill towards the neighborhood, **use lower height site lighting** with non-glare and cut off shielding." [emphasis added]

Accordingly, my client's approved lighting application followed the requirements of its Master Plan exactly. The lighting, and the poles to which the lighting are affixed, was thoughtfully chosen to comply with the City's Outdoor Lighting Ordinance and to comply with the additional requirements self-imposed by my client in its Master Plan. As an additional step, my client conformed the height of its light poles (80 feet) to match lighting approved and installed at Memorial High School in 2018 as that facility has (i) residential neighbors in closer proximity to their lights and athletic fields than my client, and (ii) has the same zoning classification. It is beyond ridiculous to argue that while the Master Plan clearly contemplates lighting of various site and buildings throughout the campus, that my client's use of a height lighting standard rather than identifying an exact maximum height of every future pole limits future lighting to a height of zero (0) feet. On this point, unlike Edgewood's Master Plan, I will note that I found no light pole height standard or specific light pole height limitation in the University of Wisconsin Master Plan.

Wisconsin case law holds that a municipality "cannot impose greater restrictions on the use of the land than the ordinance requires and where the ordinance is silent, the interpretation allowing

¹ "We interpret ordinances in the same manner as we interpret statutes because the rules for the construction of statutes and municipal ordinances are the same." *Bruno v. Milwaukee County*, 2003 WI 28, ¶ 6, 260 Wis.2d 633, 66 N.W.2d 656.

Attorney John Strange
March 12, 2019
Page 3

for the greater use of the land must be followed since zoning ordinances are in derogation of common law and are to be construed in favor of the free use of private property." *Bur v. Schwarten*, 83 Wis.2d 1, 8, 264 N.W.2d 721 (1978). In addition, to the extent the Master Plan may be ambiguous with respect to the height of light poles, the Master Plan must be construed in a manner that allows for the freer use of property. *See, e.g., Cohen v. Dane County Board of Adjustment*, 74 Wis.2d 87, 92, 246 N.W.2d 112 (1976).

In conclusion, the primary purpose for the installation of this lighting is to address safety concerns of Edgewood students who have been forced to use their athletic fields in sub-optimal lighting conditions and/or travel to other area athletic fields due to the limited daylight hours available to accommodate all of the various activities taking place annually on their fields. It is unfortunate that a handful of plaintiff neighbors continue to complain about student activities that existed long-before they moved into Edgewood's neighborhood. I trust there will be no further interference with the installation of their approved lighting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan J. Wautier', with a long horizontal line extending to the right.

Nathan J. Wautier

EXHIBIT A

City of Madison Site Plan Verification

[starts on following page]



City of Madison Site Plan Verification

PROJECT: LNDSPR-2019-00020

Address: 2219 Monroe ST

Current Revision #: 0

Submitted by: Forward Electric

Contact: Jennifer Luhman
(608) 221-1945
jennifer@forwardelectric.com

Project Type: Permitted Use Site Plan Review

Description: Lighting Edgewood activity field

Status: Approved

Revision History: 0

Review	Status	Reviewer	Reviewed
Lighting Review		Steve Rower	Feb 27 2019
Zoning Review		Christina Thiele	Mar 1 2019

ZONING

Supplement Accepted

Comment Date: 02/26/2019

Per Section 28.156(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.

*Applicant provided the date December 31st, 2019**

Edgewood High School Of Sacred Heart SO

Madison, WI

Lighting System

Fixture ID	Fixture Height	Fixture Qty	Fixture Type	Load	Comment
F1-F2	80	80	TLC-LED-1150	9.20 kW	A
	15'	2	TLC-LED-1150	1.15 kW	A
	57	1	TLC-LED-1150	1.15 kW	A
F3-F4	80	80	TLC-LED-1150	9.20 kW	A
	15'	2	TLC-LED-1150	1.15 kW	A
Total		42		42.70 kW	

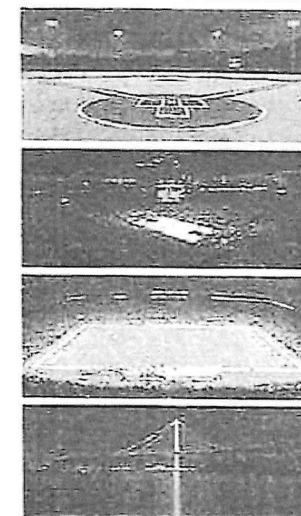
Fixture ID	Fixture Height	Load	Fixture Qty
A	Football	42.7 kW	42

Fixture ID	Fixture Height	Load	Fixture Qty
TLC-LED-1150	LED 5700K - 75 CR	575W	52,000
TLC-LED-1150	LED 5700K - 75 CR	575W	52,000

Light Level Summary

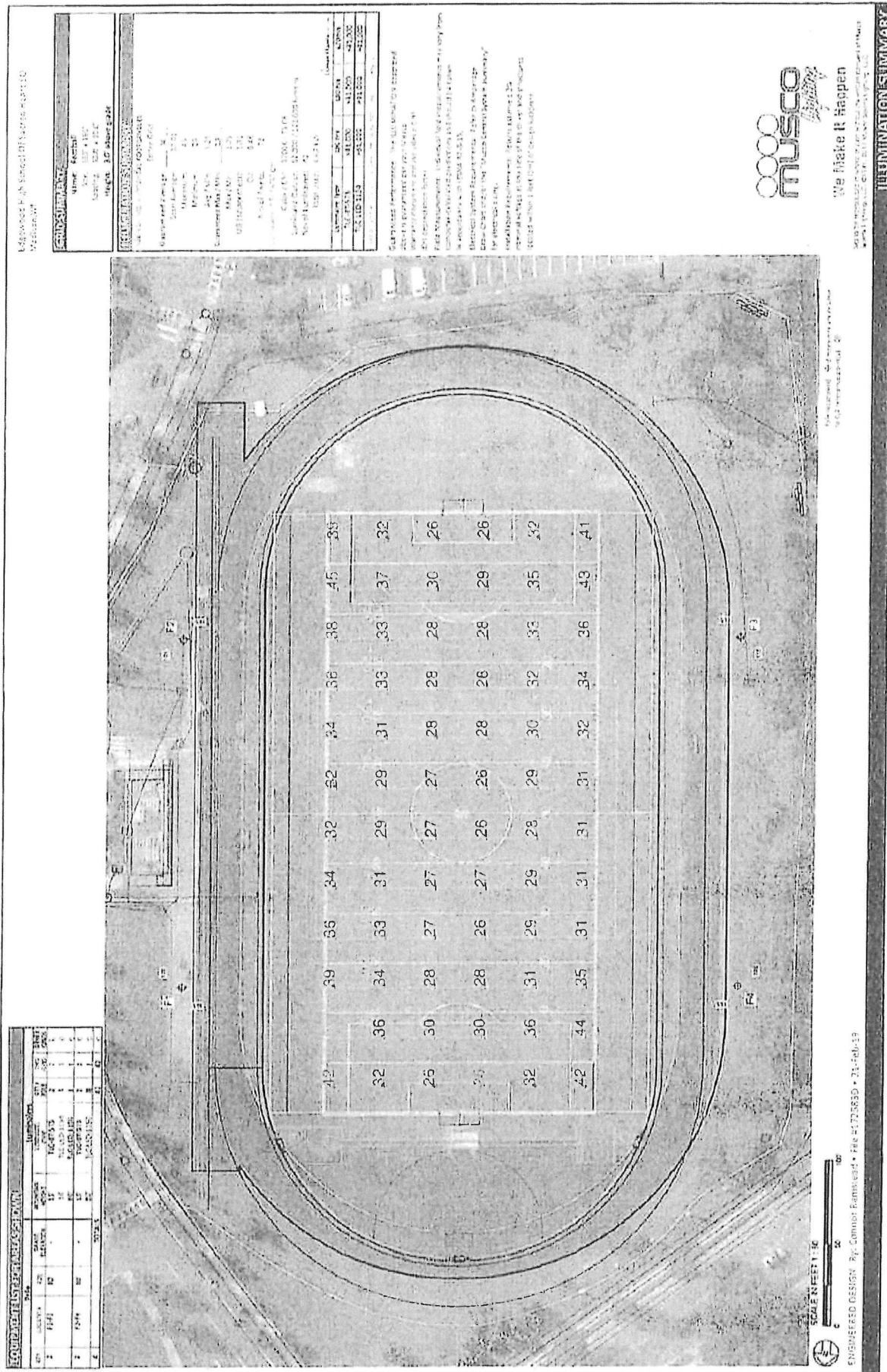
Fixture ID	Fixture Height	Load	Fixture Qty
Bank of Seats	Horizontal	5.25	0
Bank of Seats	Horizontal	14.2	11
Bank of Seats	Horizontal	27	28
Bank of Seats	Horizontal	40.1	0
Bank of Seats	Horizontal	32.6	25
Bank of Seats	Horizontal	6.76	1

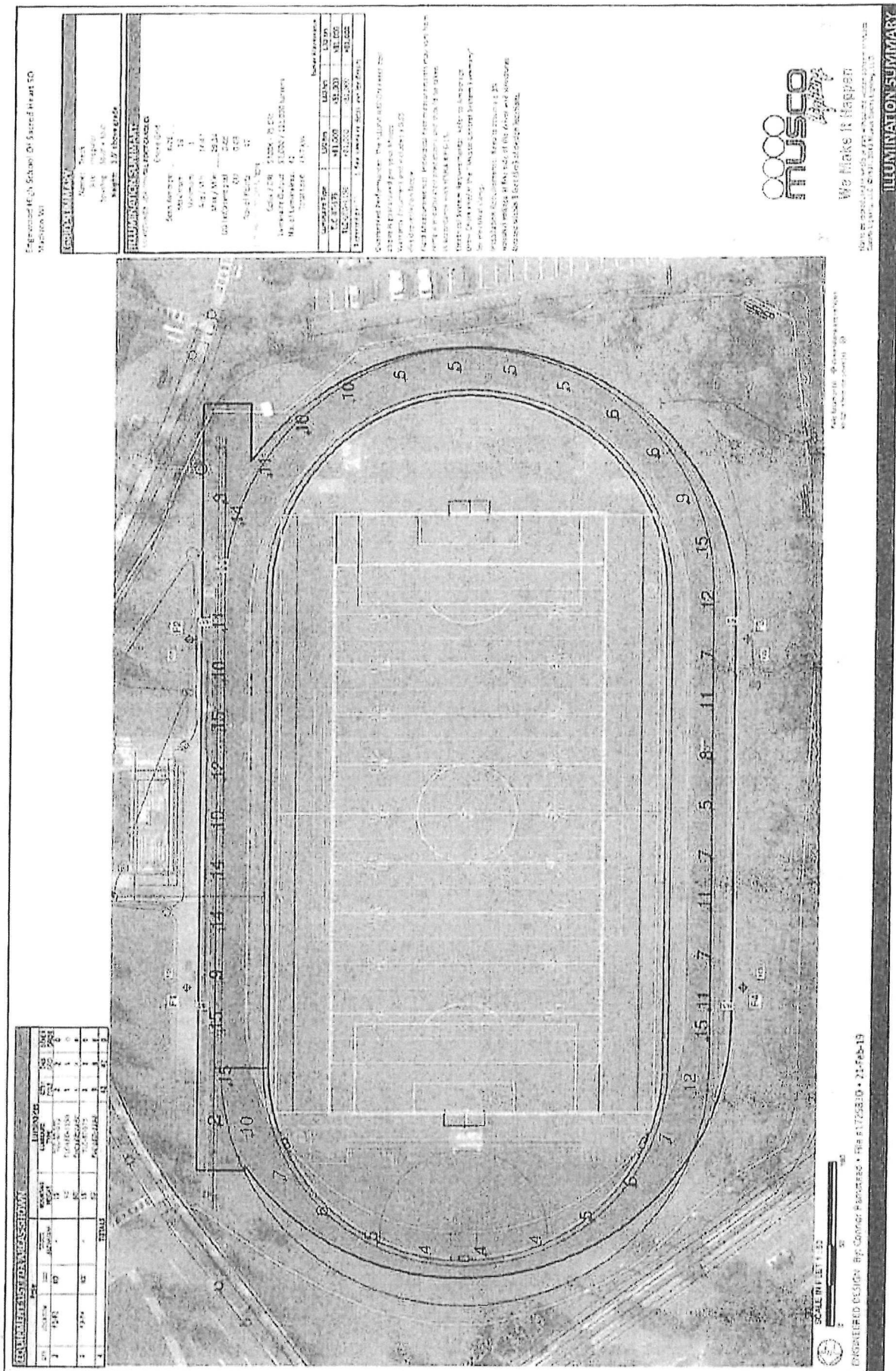
From Hometown to Professional

SITE PLAN APPROVAL
(MGO 28.186)

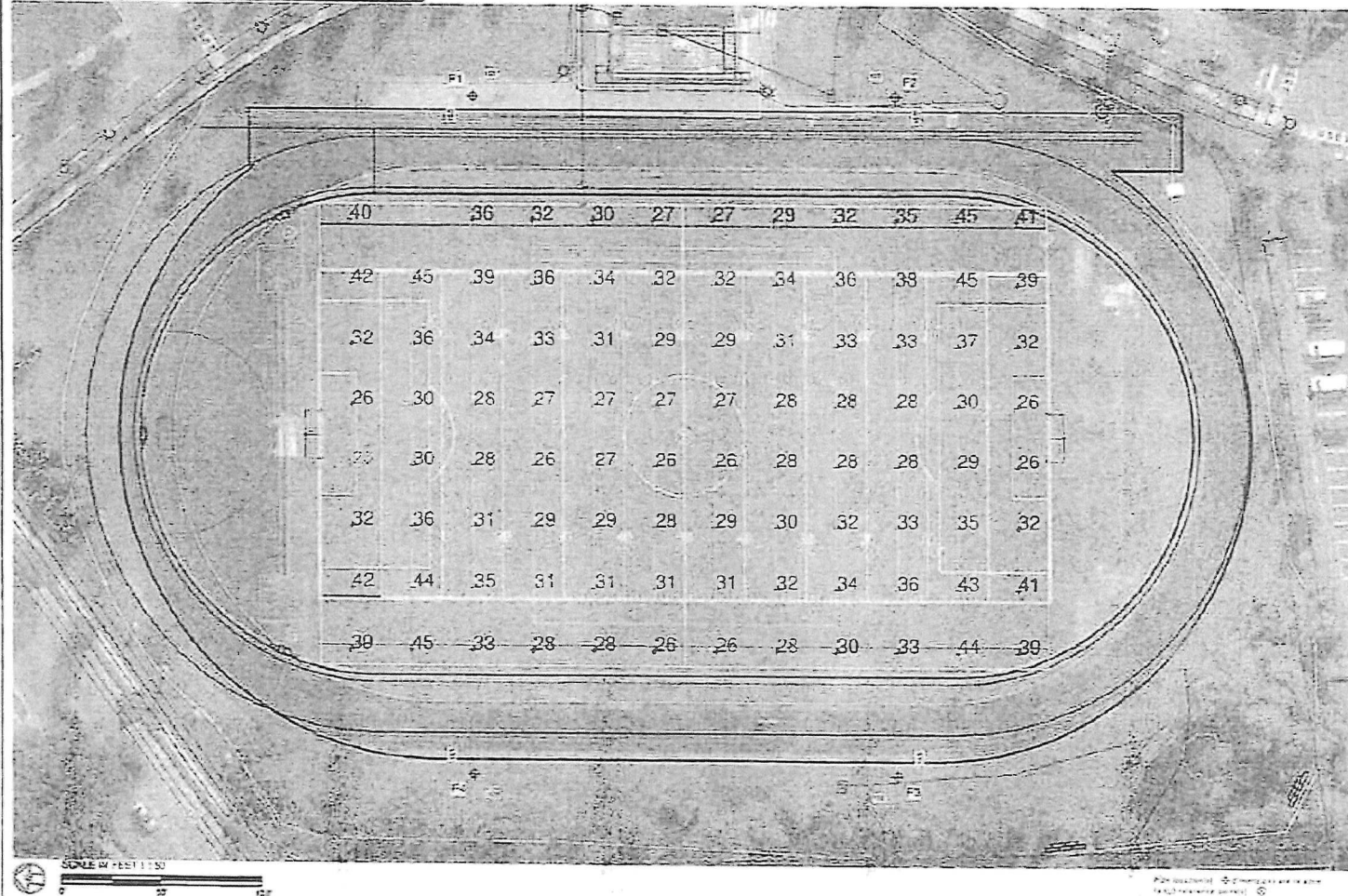
Address 2219 Monroe St
 Permit # LVDCPE-2019-00020
 Date Submitted 2/13/19
 Original ☒ Revision #
 Final Approval Date 3/1/19
 Signature [Signature]
 Zoning Department, City of Madison







Fps				Lap-time				
STP	DATE/TIME	AGE	CLASS	MOONSHOT RPM/100	ROADMAP TIME	STP	INC	STAGE
						POS	ORD	CRASH
1	11.03	02		25	745-00-00	2	2	
2				00	745-00-00	1	1	
				00	745-00-00	1	1	
2	11.04	02		15	745-00-00	1	2	
				02	745-00-00	1	0	
3						07	0	



ENGINEERED DESIGN By: Connor Hamstead • File #: 1725820 • 21-Feb-19

GRD SUMMARY	
Name:	Quartz
Star:	3.5 - 3.75
Size:	3.0 - 4.0
Height:	1.0' above grade

[illegible]

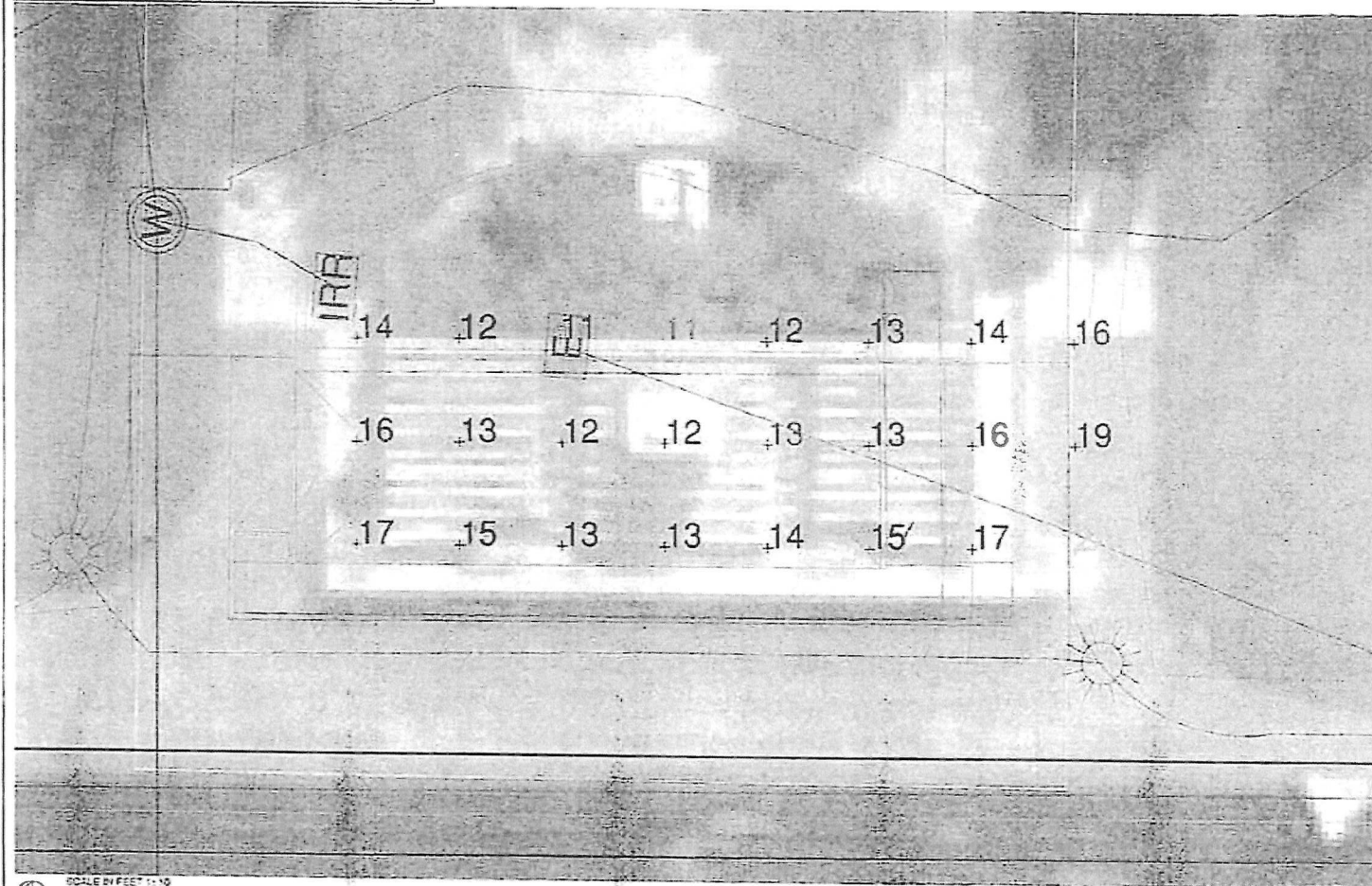
Field Measurements: Individual field measurements may vary from continuous to one-time measurements and include:

- **Temperature:** ambient, surface, and internal
- **Humidity:** relative humidity
- **Electrical System Requirements:** Refer to the design Draw Sheet and/or the Project Control System (computer) for electrical plans.
- **Insulation Resistance:** Insulation resistance (IR) is the electrical voltage of the cable of the power and structures located within 3 feet (1 m) of every structure.



This article reproduced in whole or part without the written consent of M. J. and Susan Lippert, LLC. ©1997 M. J. and Susan Lippert, LLC.

ILLUMINATION SUMMARY



ADDITIONAL INFORMATION	
Name:	Bleachmen
Size:	36" x 24"
Spacing:	10.5" x 10.5"
Height:	2.0' above grade

WILLIAMS & SON, LTD.

TAL FOOT CANNERS	
Entire Shift	
Scale Average:	14.23
Maximum:	20
Minimum:	11
No. of Pairs:	22
Color / CR:	51506 75 CR
Luminaire Output:	52,500 / 121,600 lumens
Proj. of Luminaire:	40
Total Load:	43.7 kW

Signature Date	100 NA	100 NS	100 MS
7/15/97	100 NA	100 NS	100 MS
7/15/97	100 NA	100 NS	100 MS

Grounded Performance: The ILLUMINATION describes above is maintained per year. Maximum Working duration 283 hours and 55.5% dependent factor.

Field Measurement notes: individual field measurements may vary by component and/or different conditions and should be taken in accordance with IEC61010 P.1-P.15.

Electrical System Requirements: Refer to Ampere per Draw Chart and/or the "Industrial Control System Summary" for electrical wiring.

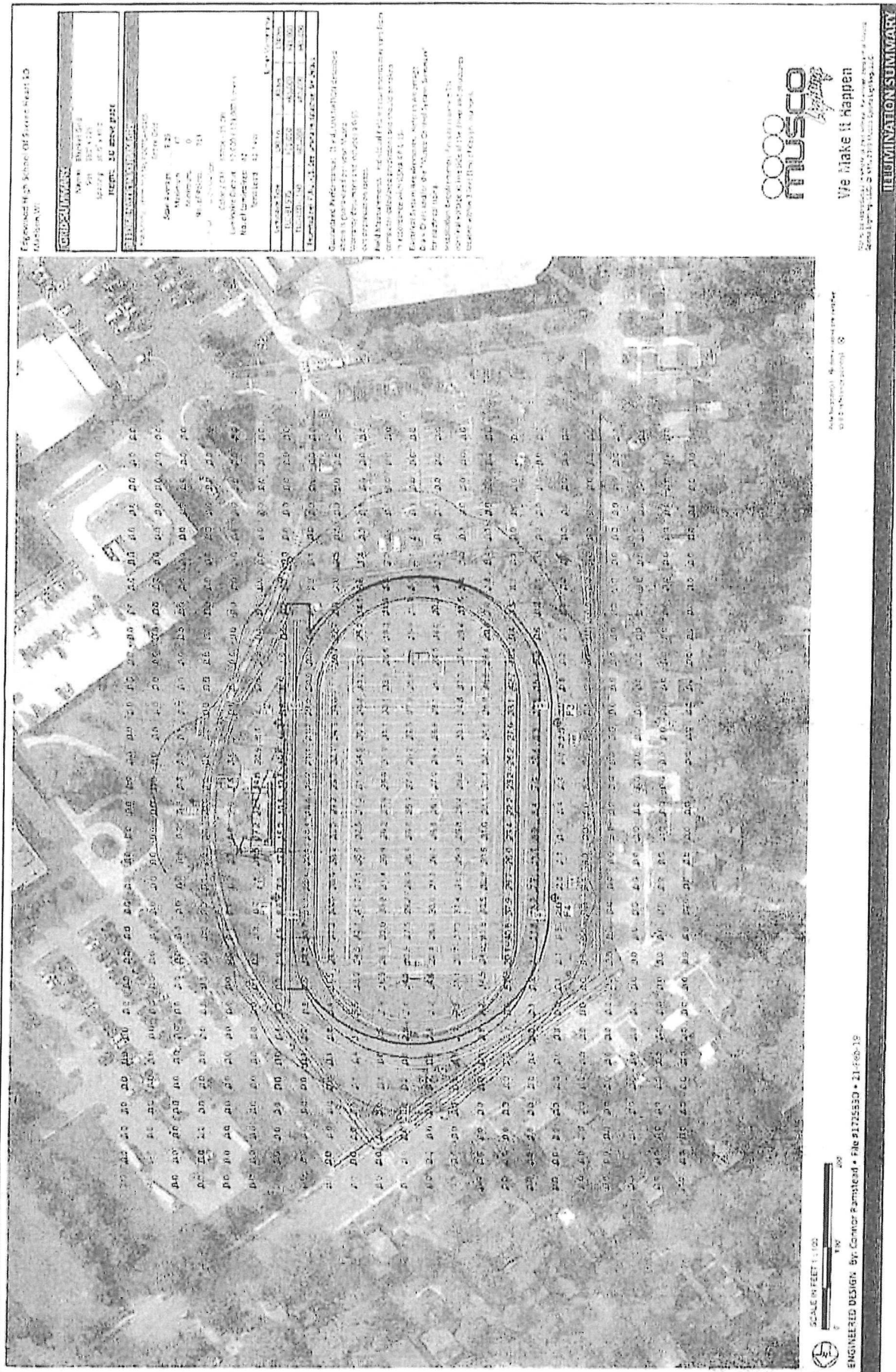
Insulation Requirements: Results require a 3M nominal voltage of one of the draw and structures located within 3 feet (1m) of open locations.

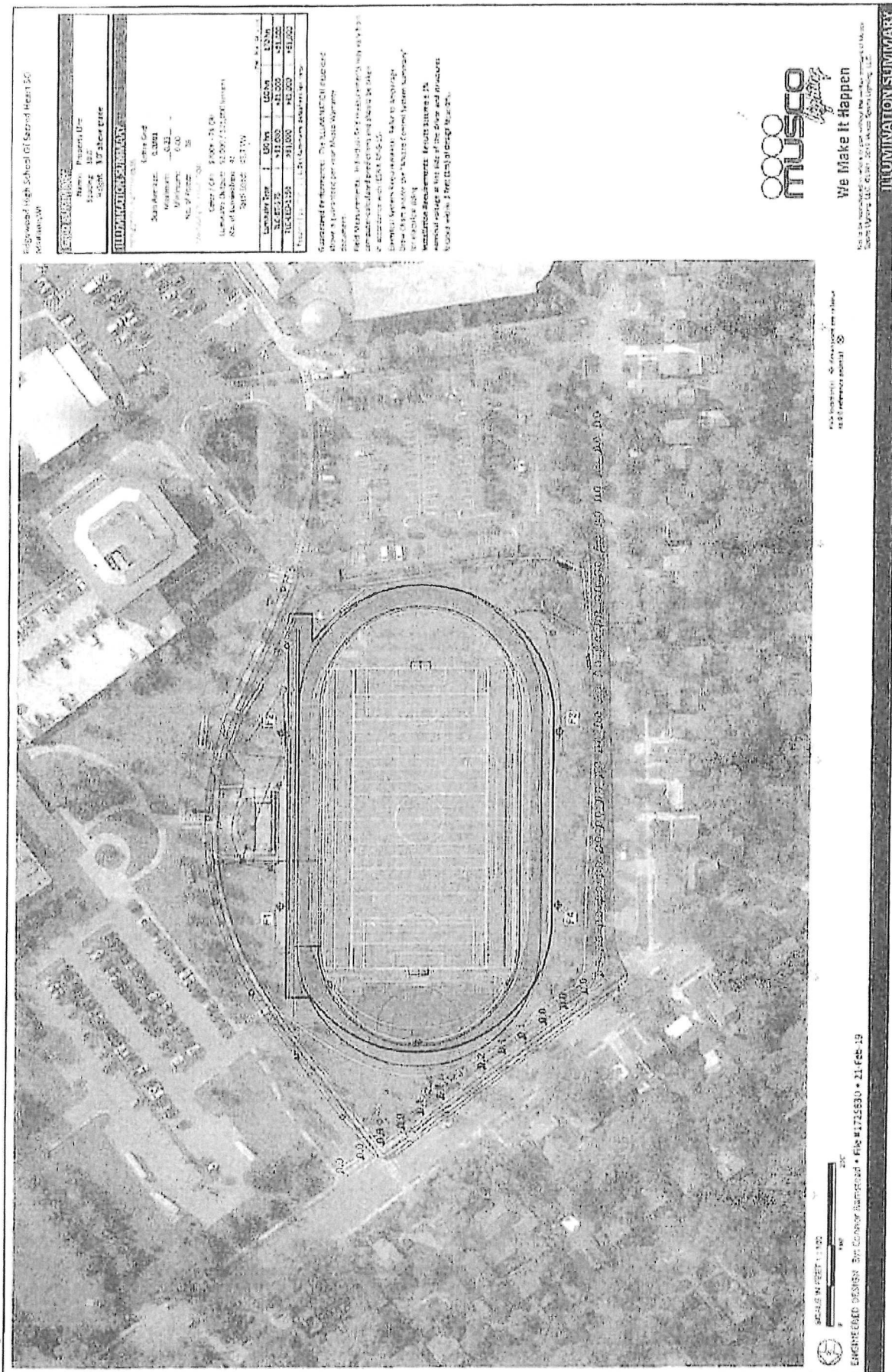


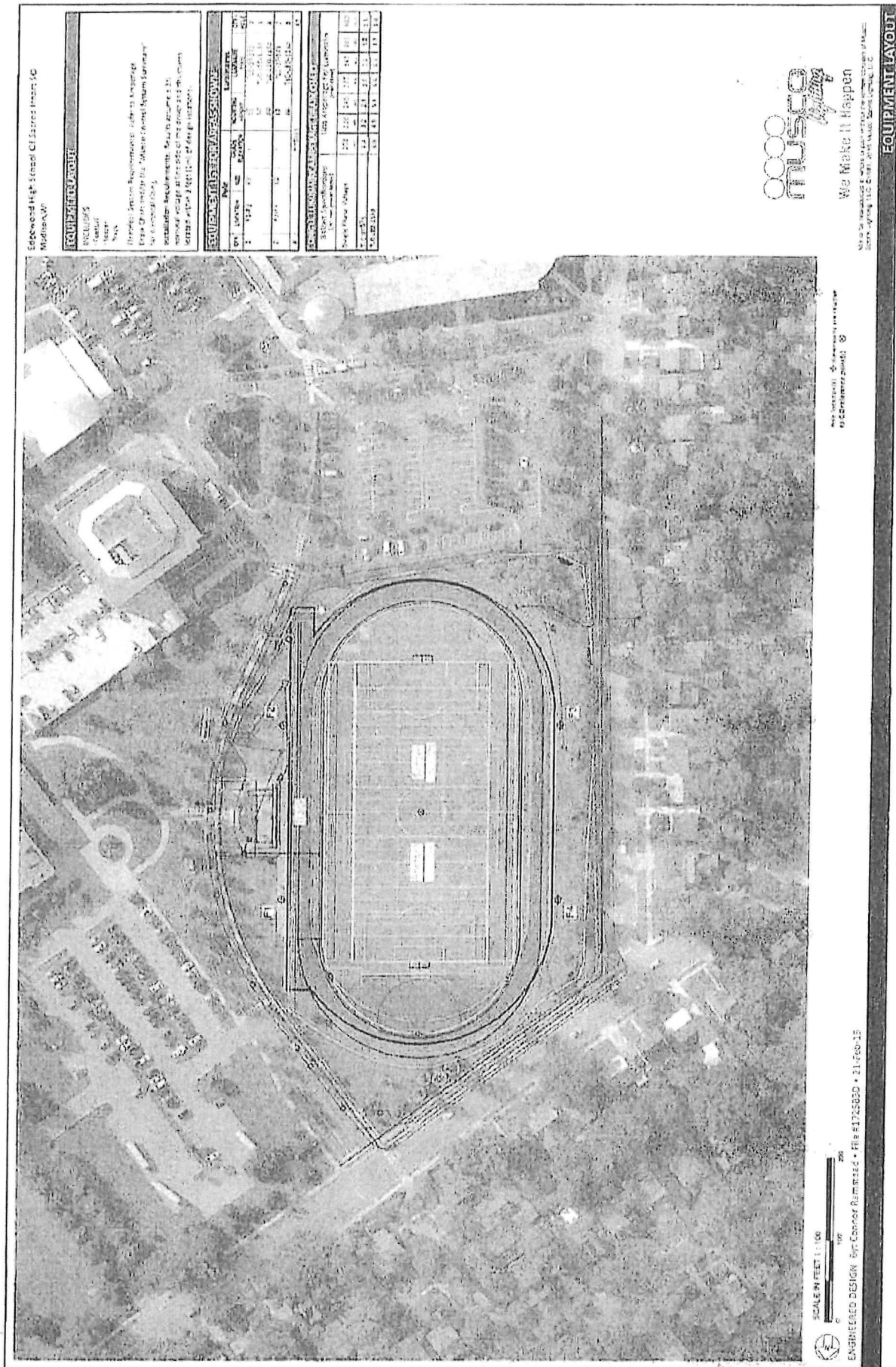
We Make It Happen

The authors reported no effects of sex on any of the self-reported or physiological outcomes.

ILLUMINATION SUMMARY







Edgewood High School of Sacred Heart SD
Henderson, WI

CONCLUSIONS

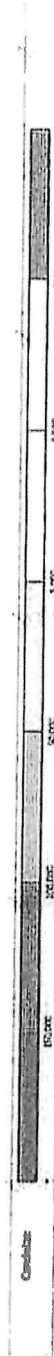
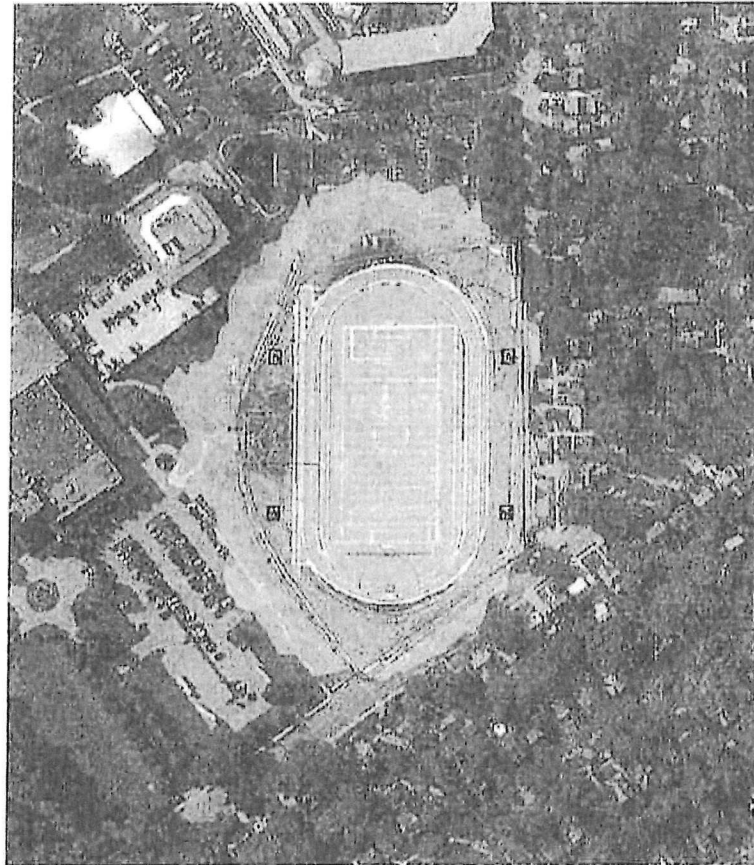
Based on the findings of this study, the maximum recommended height for the stadium lighting system is 150 feet. The maximum recommended height for the stadium lighting system is 150 feet. The maximum recommended height for the stadium lighting system is 150 feet.

A well-designed lighting system is essential to provide maximum stadium lighting. The maximum recommended height for the stadium lighting system is 150 feet. The maximum recommended height for the stadium lighting system is 150 feet.

RECOMMENDATIONS

High CRI is 100,000 or more available. Should only occur on or very near the stadium lighting system. The maximum recommended height for the stadium lighting system is 150 feet. The maximum recommended height for the stadium lighting system is 150 feet.

Significant glare 25,000 to 75,000 candles. Equivalent to high beam headlights of a car. Minimum to the stadium lighting system is 150 feet. The maximum recommended height for the stadium lighting system is 150 feet.



We Make It Happen

Map is to be reproduced in whole or part without the written consent of Musco Lighting, LLC. Copyright © 2019 Musco Lighting, LLC

ENVIRONMENTAL GLARE IMPACT